



STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

February 21, 2020

The Honorable Katie Hobbs
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Hobbs:

I am transmitting to you the following bill from the Fifty-fourth Legislature, 2nd Regular Session, which I signed on February 21st, 2020:

H.B. 2686 building permits; utilities; restrictions; prohibitions (Bowers)

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

House Engrossed
FILED
KATIE HOBBS
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

CHAPTER 3
HOUSE BILL 2686

AN ACT

AMENDING SECTION 9-467, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 7, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-810; AMENDING SECTION 11-321, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 6, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-867; RELATING TO BUILDING PERMITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-467, Arizona Revised Statutes, is amended to
3 read:

4 9-467. Building permits; issuance; distribution of copies;
5 state preemption; utilities; subsequent owner;
6 limitation; definitions

7 A. Any ~~city or town~~ MUNICIPALITY requiring the issuance of a
8 building permit shall transmit one copy of the permit to the county
9 assessor and one copy to the director of the department of revenue.
10 Permit copies shall provide the permit number, issue date and parcel
11 number. On the issuance of the certificate of occupancy or the
12 certificate of completion or on the expiration or cancellation of the
13 permit, the assessor and the department of revenue shall be notified in
14 writing or in electronic format of the permit number, parcel number, issue
15 date and completion date.

16 B. THE REGULATION OF A UTILITY PROVIDER'S AUTHORITY TO OPERATE AND
17 SERVE CUSTOMERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF
18 BUILDING PERMITS AS IT RELATES TO A BUILDING PERMIT APPLICANT'S ABILITY TO
19 USE A UTILITY PROVIDER THAT IS CAPABLE AND AUTHORIZED TO PROVIDE UTILITY
20 SERVICE IS ALLOWED SOLELY IN ACCORDANCE WITH SUBSECTIONS C AND D OF THIS
21 SECTION. A BUILDING PERMIT APPLICANT'S ABILITY TO USE A UTILITY PROVIDER
22 THAT IS CAPABLE AND AUTHORIZED TO PROVIDE UTILITY SERVICE IS NOT SUBJECT
23 TO FURTHER REGULATION BY A MUNICIPALITY.

24 C. A MUNICIPALITY REQUIRING THE ISSUANCE OF A BUILDING PERMIT MAY
25 NOT DENY A PERMIT APPLICATION BASED ON THE UTILITY PROVIDER PROPOSED TO
26 PROVIDE UTILITY SERVICE TO THE PROJECT.

27 D. A MUNICIPALITY ISSUING A BUILDING PERMIT SHALL ENSURE THAT ALL
28 APPLICABLE PERMITS AND ASSOCIATED FEES ASSESSED ON A BUILDING PERMIT
29 APPLICANT CONTAIN REQUIREMENTS AND AMOUNTS THAT DO NOT EXCEED THE
30 REQUIREMENTS AND AMOUNTS FOR USE OF OTHER UTILITY PROVIDERS AND DO NOT
31 HAVE THE EFFECT OF RESTRICTING A PERMIT APPLICANT'S ABILITY TO USE THE
32 SERVICES OF A UTILITY PROVIDER THAT IS CAPABLE AND AUTHORIZED TO PROVIDE
33 UTILITY SERVICE.

34 ~~B.~~ E. A ~~city or town~~ MUNICIPALITY may not require an applicant for
35 a building permit to hold a transaction privilege tax license or business
36 license as a condition for issuing the building permit. A city or town
37 may require a person that has been issued a building permit and that does
38 not otherwise hold a business license from the ~~city or town~~ MUNICIPALITY
39 to apply for a business license within thirty days after issuing the
40 building permit.

41 ~~C.~~ F. If a person has constructed a building or an addition to a
42 building without obtaining a building permit, a ~~city or town~~ MUNICIPALITY
43 shall not require a subsequent owner to obtain a permit for the
44 construction or addition done by the prior owner before issuing a permit

1 for a building addition except that ~~nothing in this section shall be~~
2 ~~construed as prohibiting the enforcement of~~ DOES NOT PROHIBIT ENFORCING an
3 applicable ordinance or code provision ~~which~~ THAT affects the public
4 health or safety.

5 G. THIS SECTION DOES NOT PROHIBIT A MUNICIPALITY FROM RECOVERING
6 REASONABLE COSTS ASSOCIATED WITH REVIEWING AND ISSUING A BUILDING PERMIT.

7 H. THIS SECTION DOES NOT AFFECT ANY AUTHORITY OF A MUNICIPALITY TO
8 MANAGE OR OPERATE A MUNICIPALLY OWNED UTILITY.

9 I. FOR THE PURPOSES OF THIS SECTION:

10 1. "MUNICIPALITY" MEANS A CITY OR TOWN ORGANIZED IN ACCORDANCE WITH
11 LAW, INCLUDING A HOME RULE OR CHARTER CITY.

12 2. "UTILITY SERVICE" MEANS WATER, WASTEWATER, NATURAL GAS,
13 INCLUDING PROPANE GAS, OR ELECTRIC SERVICE PROVIDED TO AN END USER.

14 Sec. 2. Title 9, chapter 7, article 1, Arizona Revised Statutes, is
15 amended by adding section 9-810, to read:

16 9-810. State preemption; utilities; restrictions;
17 prohibition; limitation; definition

18 A. THE REGULATION OF A UTILITY PROVIDER'S AUTHORITY TO OPERATE AND
19 SERVE CUSTOMERS IS A MATTER OF STATEWIDE CONCERN. A PERSON'S OR ENTITY'S
20 ABILITY TO USE THE SERVICES OF A UTILITY PROVIDER THAT IS CAPABLE AND
21 AUTHORIZED TO PROVIDE UTILITY SERVICE IS NOT SUBJECT TO FURTHER REGULATION
22 BY A MUNICIPALITY PURSUANT TO THIS SECTION.

23 B. ANY CODE, ORDINANCE, LAND USE REGULATION OR GENERAL OR SPECIFIC
24 PLAN PROVISION OR PART OF A CODE, ORDINANCE, LAND USE REGULATION OR
25 GENERAL OR SPECIFIC PLAN PROVISION ADOPTED BY A MUNICIPALITY MAY NOT
26 PROHIBIT OR HAVE THE EFFECT OF RESTRICTING A PERSON'S OR ENTITY'S ABILITY
27 TO USE THE SERVICES OF A UTILITY PROVIDER THAT IS CAPABLE AND AUTHORIZED
28 TO PROVIDE UTILITY SERVICE AT A PERSON'S OR ENTITY'S PROPERTY.

29 C. A MUNICIPALITY MAY NOT IMPOSE A FINE, PENALTY OR OTHER
30 REQUIREMENT THAT HAS THE EFFECT OF RESTRICTING A UTILITY PROVIDER'S
31 AUTHORITY TO OPERATE OR SERVE CUSTOMERS.

32 D. THIS SECTION DOES NOT AFFECT ANY AUTHORITY OF A MUNICIPALITY TO
33 MANAGE THE PUBLIC HIGHWAYS WITHIN THE MUNICIPALITY'S BOUNDARIES OR TO
34 EXERCISE THE MUNICIPALITY'S POLICE POWERS TO REVIEW AND APPROVE AN
35 APPLICATION BEFORE ISSUING A PERMIT TO PERFORM WORK IN THE PUBLIC HIGHWAYS
36 OR TO ENFORCE ASSOCIATED PERMIT CONDITIONS.

37 E. THIS SECTION DOES NOT AFFECT ANY AUTHORITY OF A MUNICIPALITY TO
38 MANAGE OR OPERATE A MUNICIPALLY OWNED UTILITY.

39 F. FOR THE PURPOSES OF THIS SECTION, "UTILITY SERVICE" MEANS WATER,
40 WASTEWATER, NATURAL GAS, INCLUDING PROPANE GAS, OR ELECTRIC SERVICE
41 PROVIDED TO AN END USER.

1 Sec. 3. Section 11-321, Arizona Revised Statutes, is amended to
2 read:

3 11-321. Building permits; issuance; state preemption;
4 utilities; distribution of copies; subsequent
5 owner; limitation; definition

6 A. Except in those cities and towns ~~which~~ THAT have an ordinance
7 relating to the issuance of building permits, the board of supervisors
8 shall require a building permit for any construction of a building or an
9 addition ~~thereto~~ TO A BUILDING exceeding a cost of ~~one thousand dollars~~
10 \$1,000 within its jurisdiction. The building permit shall be filed with
11 the board of supervisors or its designated agent.

12 B. THE REGULATION OF A UTILITY PROVIDER'S AUTHORITY TO OPERATE AND
13 SERVE CUSTOMERS IS A MATTER OF STATEWIDE CONCERN. THE REGULATION OF
14 BUILDING PERMITS AS IT RELATES TO A BUILDING PERMIT APPLICANT'S ABILITY TO
15 USE A UTILITY PROVIDER THAT IS CAPABLE AND AUTHORIZED TO PROVIDE UTILITY
16 SERVICE IS ALLOWED SOLELY IN ACCORDANCE WITH SUBSECTIONS C AND D OF THIS
17 SECTION. A BUILDING PERMIT APPLICANT'S ABILITY TO USE A UTILITY PROVIDER
18 THAT IS CAPABLE AND AUTHORIZED TO PROVIDE UTILITY SERVICE IS NOT SUBJECT
19 TO FURTHER REGULATION BY A COUNTY.

20 C. A COUNTY MAY NOT DENY A PERMIT APPLICATION BASED ON THE UTILITY
21 PROVIDER PROPOSED TO PROVIDE UTILITY SERVICE TO THE PROJECT.

22 D. A COUNTY ISSUING A BUILDING PERMIT SHALL ENSURE THAT ALL
23 APPLICABLE PERMITS AND ASSOCIATED FEES ASSESSED ON A BUILDING PERMIT
24 APPLICANT CONTAIN REQUIREMENTS AND AMOUNTS THAT DO NOT EXCEED THE
25 REQUIREMENTS AND AMOUNTS FOR USE OF OTHER UTILITY PROVIDERS AND DO NOT
26 HAVE THE EFFECT OF RESTRICTING A PERMIT APPLICANT'S ABILITY TO USE THE
27 SERVICES OF A UTILITY PROVIDER THAT IS CAPABLE AND AUTHORIZED TO PROVIDE
28 UTILITY SERVICE.

29 ~~B.~~ E. The board of supervisors may not require an applicant for a
30 building permit to hold a transaction privilege tax license or business
31 license as a condition for issuing the building permit.

32 ~~C.~~ F. Where deemed of public convenience, the BOARD OF supervisors
33 shall ~~permit~~ ALLOW the application for and the issuance of building
34 permits by mail.

35 ~~D.~~ G. One copy of the building permit required by the terms of
36 subsection A of this section shall be transmitted to the county assessor
37 and one copy SHALL BE TRANSMITTED to the director of the department of
38 revenue. The permit copy provided to the assessor and the department of
39 revenue shall have the permit number, the issue date and the parcel number
40 for which the permit is issued. On the issuance of the certificate of
41 occupancy or the certificate of completion or on the expiration or
42 cancellation of the permit, the assessor and the department of revenue
43 shall be notified in writing or in electronic format of the permit number,
44 parcel number, issue date and completion date.

1 ~~F.~~ H. If a person has constructed a building or an addition to a
2 building without obtaining a building permit, a county shall not require a
3 subsequent owner to obtain a permit for the construction or addition done
4 by the prior owner before issuing a permit for a building addition except
5 that ~~nothing in this section shall be construed as prohibiting the~~
6 ~~enforcement of~~ DOES NOT PROHIBIT ENFORCING an applicable ordinance or code
7 provision ~~which~~ THAT affects the public health or safety.

8 I. THIS SECTION DOES NOT PROHIBIT A COUNTY FROM RECOVERING
9 REASONABLE COSTS ASSOCIATED WITH REVIEWING AND ISSUING A BUILDING PERMIT.

10 J. THIS SECTION DOES NOT AFFECT ANY AUTHORITY OF A COUNTY TO MANAGE
11 OR OPERATE A COUNTY-OWNED UTILITY.

12 K. FOR THE PURPOSES OF THIS SECTION, "UTILITY SERVICE" MEANS WATER,
13 WASTEWATER, NATURAL GAS, INCLUDING PROPANE GAS, OR ELECTRIC SERVICE
14 PROVIDED TO AN END USER.

15 Sec. 4. Title 11, chapter 6, article 5, Arizona Revised Statutes,
16 is amended by adding section 11-867, to read:

17 11-867. State preemption; utilities; restrictions;
18 prohibition; limitation; definition

19 A. THE REGULATION OF A UTILITY PROVIDER'S AUTHORITY TO OPERATE AND
20 SERVE CUSTOMERS IS A MATTER OF STATEWIDE CONCERN. A PERSON'S OR ENTITY'S
21 ABILITY TO USE THE SERVICES OF A UTILITY PROVIDER THAT IS CAPABLE AND
22 AUTHORIZED TO PROVIDE UTILITY SERVICE IS NOT SUBJECT TO FURTHER REGULATION
23 BY A COUNTY PURSUANT TO THIS SECTION.

24 B. ANY CODE, ORDINANCE, LAND USE RESTRICTION OR GENERAL OR SPECIFIC
25 PLAN PROVISION OR PART OF A CODE, ORDINANCE, LAND USE REGULATION OR
26 GENERAL OR SPECIFIC PLAN PROVISION ADOPTED BY A COUNTY MAY NOT PROHIBIT OR
27 HAVE THE EFFECT OF RESTRICTING A PERSON'S OR ENTITY'S ABILITY TO USE THE
28 SERVICES OF A UTILITY PROVIDER THAT IS CAPABLE AND AUTHORIZED TO PROVIDE
29 UTILITY SERVICE AT A PERSON'S OR ENTITY'S PROPERTY.

30 C. A COUNTY MAY NOT IMPOSE A FINE, PENALTY, OR OTHER REQUIREMENT
31 THAT HAS THE EFFECT OF RESTRICTING A UTILITY PROVIDER'S AUTHORITY TO
32 OPERATE OR SERVE CUSTOMERS.

33 D. THIS SECTION DOES NOT AFFECT ANY AUTHORITY OF A COUNTY TO MANAGE
34 THE PUBLIC HIGHWAYS WITHIN THE COUNTY'S BOUNDARIES OR TO EXERCISE THE
35 COUNTY'S POLICE POWERS TO REVIEW AND APPROVE AN APPLICATION BEFORE ISSUING
36 A PERMIT TO PERFORM WORK IN THE PUBLIC HIGHWAYS OR TO ENFORCE ASSOCIATED
37 PERMIT CONDITIONS.

38 E. THIS SECTION DOES NOT AFFECT ANY AUTHORITY OF A COUNTY TO MANAGE
39 OR OPERATE A COUNTY-OWNED UTILITY.

40 F. FOR THE PURPOSES OF THIS SECTION, "UTILITY SERVICE" MEANS WATER,
41 WASTEWATER, NATURAL GAS, INCLUDING PROPANE GAS, OR ELECTRIC SERVICE
42 PROVIDED TO AN END USER.

APPROVED BY THE GOVERNOR FEBRUARY 21, 2020.

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FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 21, 2020.

Passed the House February 12, 20 20

by the following vote: 36 Ayes,

23 Nays, 0 Not Voting

Mr. R. Boyce
Speaker of the House

☒ Pro Tempore

Jim Drake
Chief Clerk of the House

Passed the Senate February 13, 20 20

by the following vote: 19 Ayes,

10 Nays, 1 Not Voting

Harriet Farn
President of the Senate

Susan Aceves
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

18th day of February, 20 20

at 8:38 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 21st day of

February 2020

at 11:50 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 21st day of February, 20 20

at 4:01 o'clock P. M.

[Signature]
Secretary of State

H.B. 2686